

REMARKS

The Office Action has been carefully reviewed and studied. In response, claims 1, 16, 19, and 29 are currently amended, claims 26-28 are now canceled, and new claims 35-44 have been added. Support for the amendments and new claims is to be found throughout the disclosure including, for example, Figure 1. No new matter has been added.

Claim 1 was rejected under 35 USC 102(b) as anticipated by US Patent Number 3,778,952 ("Soucy"). Soucy does not teach a pair of spaced apart end flanges extending from each end of the bracing member 32 as the claim now requires. Moreover, there is no projection in Soucy that extends outwardly past the end flanges, and there are no end flanges disposed on opposite sides of a projection. For at least these reasons, claim 1 is not anticipated by Soucy.

Claims 2-25 were rejected under 35 USC 103(a) as being anticipated by Soucy in view of US Patent Number 3,979,874 ("Cubbler"). Generally, in order to make a *prima facie* case of obviousness, the prior art references, when combined must teach each and every limitation of the purportedly obvious claim. More particularly, there must be a finding that an ordinarily skilled artisan would have combined the references without hindsight knowledge of the present invention. Respectfully, the Examiner has failed to make a *prima facie* case of obviousness as discussed in detail here below.

Claims 2-6 as well as new claims 35-39 depend from claim 1, and claim 1 is not anticipated by Soucy as discussed here above. Moreover, Cubbler does not introduce elements that, when combined with the teaching of Soucy includes each and every element in any of the rejected claims. Notwithstanding this, an ordinarily skilled artisan would find that Soucy and Cubbler teach against combining the references. For example, Soucy teaches a bracing member that may be constructed of heavy gage sheet metal and configured to be "readily removably engaged between adjacent studs." See column 1, lines 20-23 and lines 24-27. Cubbler, on the other hand, teaches runner joints in a suspended ceiling system that are

specifically configured such that the joints cannot be inadvertently detached. (See column 2, lines 37-54 and column 5, line 65 through column 6 line 22.) A person of ordinary skill would appreciate that the application of the multiple detent engagement of Cubbler to the bracing members of Soucy would render the bracing members *difficult* to disengage rather than readily removable engaged as Soucy teaches. For at least these reasons, claims 2-6 and 35-39 define patentable subject matter distinguished over the cited art.

Claim 7 is not obvious over Soucy in view of Cubbler. The Examiner points to an area between leg 44 and abutment flange 46 in Figure 5 as the locking surface in Soucy. Further, the Examiner pointed to shoulder 50 in Figure 2 as the stop in Soucy. Respectfully, the area between leg 44 and flange 46 and the shoulder 50 are on a common end portion of the same bracing member. The surface of one bracing member never engages with a stop, or shoulder, on another bracing member as is clearly apparent from Figure 2 of Soucy. The end portion of one bracing member having the putative surface and stop can never be functionally engaged with an end of another bracing member having the putative surfaces and stops. Respectfully, the Patent Office has erroneously construed Soucy to include the claimed locking surface and stop.

Further, the Examiner has provided no insight whatever as to how a person of ordinary skill would apply Cubbler to Soucy to provide a more secure attachment between two bridging members. It is unclear to Applicants how any feature of Cubbler applied to surfaces and stops that are never near each other can provide any utility. The Examiner is respectfully requested to provide clarification. Additionally, as discussed above relative to claims 2-6 and 35-39 Soucy teaches against the application of the interconnection means taught by Cubbler because to do so would be counter to the objective of making the bracing assembly capable of being readily removably engaged between adjacent studs. For at least these reasons, claim 7 and

dependent claims 8-15 and new dependent claims 29, 30, 40, and 41, define patentable subject matter distinguished over the cited art.

Claim 16 is not obvious over Soucy in view of Cubbler. Claim 16 as amended requires structure as described in claim 1 as amended. This structure is not disclosed in Soucy as discussed relative to claim 1 above. Moreover, Cubbler does not disclose this claimed structure. Additionally, there is no projection in Soucy or Cubbler that substantially extends in a generally horizontal plane, the horizontal plan being generally perpendicular to the stud web. Further, as discussed above a person of ordinary skill would be averse to modification of Soucy with Cubbler because to do so would be counter to The Soucy teaching of the bracing member being readily removably engaged between adjacent studs. For at least these reasons, claim 16 and dependent claims 17, 18, 31, and 32, and new dependent claim 42 defines patentable subject matter distinguished over the cited art.

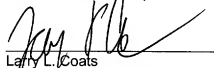
Claim 19 is not obvious from Soucy in view of Cubbler. Soucy does not disclose abutting an end flange formed on an end of the first stud spacer to a face of a web and abutting an end flange formed on an end of the second stud spacer to an opposite face of the web. Any reasonable construction of end flanges in Soucy cannot place them abutted to opposite surfaces of the web of the stud. Additionally, as discussed in detail above, the application of securement means of Cubbler to Soucy is not obvious. For at least these reasons, claim 19, dependent claims 20-25 and new dependent claim 43 define patentable subject matter over the cited art.

Claims 29-34 were rejected under 35 USC 103(a) as being unpatentable over Soucy in view of Cubbler and further in view of US Patent Number 4,007,570 ("Hunter"). Claims 29 and 30 depend from claim 7. Claims 31 and 32 depend from claim 16. Claims 33 and 34 depend from claim 19. Claims 7, 16, and 19 are not obvious from Soucy and Cubbler as has been discussed in detail here above. Additionally, the examiner has failed to correctly construe the

flanges in Hunter. The Examiner pointed to parts 8/10 as a flange. Nogging clip 8 is not a flange. Base 10 of clip 8 is not a flange. For at least these reasons, claims 29-34 define patentable subject matter distinguished over the cited art.

For the foregoing reasons, it is respectfully urged that the present application is in condition for allowance and allowance is requested.

Respectfully submitted,
COATS & BENNETT, P.L.L.C.

A handwritten signature in dark ink, appearing to read "Larry L. Coats", is written over a horizontal line.

Dated: November 6, 2008

Larry L. Coats
Registration No.: 25,620
Telephone: (919) 854-1844
Facsimile: (919) 854-2084